

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Anton Harris,

Petitioner,

v.

Criminal Case No. 11-20752
Civil Action No. 14-12904

United States of America,

Respondent.

Sean F. Cox
United States District Court Judge

ORDER

Acting *pro se*, on July 24, 2014, Petitioner Anton Harris (“Harris”) filed a Motion to Vacate Sentence, pursuant to 28 U.S.C. § 2255.

In responding to the motion, the Government stated that one of the three claims raised by Harris in his motion requires an evidentiary hearing.

Thereafter, this Court appointed counsel for Harris. (Docket Entry No. 555).

Before Harris became aware that counsel had been appointed for him, on May 19, 2015, Harris filed a *pro se* motion asking to be able to supplement his § 2255 motion to add some additional claims. (Docket Entry No. 565).

The Court held a Status Conference with counsel on June 24, 2015, at which time counsel for Harris asked the Court to allow him to file a supplemental brief, after conferring with Harris. The Court then set a briefing schedule and set a date for an evidentiary hearing. This matter was delayed, however, when counsel for Harris could not locate or communicate with Harris for a period of time while Harris was being transported to this district.

On September 18, 2015, this Court held a Status Conference with the parties, after

counsel for Harris had an opportunity to meet with Harris in person. Counsel for Harris requested time to investigate some facts relating to Harris's claims and requested that he be able to file a supplemental brief.

On September 21, 2015, this Court issued an order requiring Counsel for Harris to file "a supplemental brief that sets forth each and every claim that Harris seeks to assert in his § 2255 Motion," including, "on a claim-by-claim basis, any requests for an evidentiary hearing." (Docket Entry No. 582). The order required that brief to be filed by Counsel for Harris by November 1, 2015, and required the Government's response by November 24, 2015. (*Id.*).

Prior to November 1, 2015, however, Harris filed a *pro se* letter/motion asking the Court to appoint new counsel for him. Harris's appointed counsel, Mr. Minnick, also filed a Motion to Withdraw, indicating that Harris is not satisfied with his representation because, among other things, he refused to file a motion asking the Court to release Harris on bond pending the evidentiary hearing.

This Court held a hearing regarding the Motion to Withdraw on October 21, 2015. At that hearing, Harris indicated that he no longer wishes Mr. Minnick to represent him in this matter.

The Court hereby **GRANTS** Mr. Minnick's Motion to Withdraw. The Court also **GRANTS, IN PART**, Harris's request that a new attorney be appointed to represent him.

As the Court reminded the parties at hearing, there is no constitutional right to the appointment of counsel in civil cases. This Court does, however, have broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987). A habeas petitioner may obtain representation at any stage of the case "[w]henver

the United States magistrate or the court determines that the interests of justice so require.” 18 U.S.C. § 3006A(a)(2).

IT IS HEREBY ORDERED that the Federal Defender’s Office shall appoint new counsel for Harris for the **limited purpose of representing him at the evidentiary hearing in this matter.**

IT IS FURTHER ORDERED that, no later than **November 24, 2015**, the Government **shall** file a response to Harris’s *pro se* “Motion for Permission to Supplement his Pending § 2255 Motion with Additional Meritorious Issues.” (Docket Entry No. 565).

Following the conclusion of that briefing, this Court shall schedule a new date for the evidentiary hearing in this matter and provide the parties further direction.

IT IS SO ORDERED.

Dated: October 22, 2015

s/ Sean F. Cox

Sean F. Cox

U. S. District Judge

I hereby certify that on October 22, 2015, the foregoing document was served on counsel of record via electronic means and upon Anton Harris via First Class mail at the address below:

Anton Harris 46629-039
Sanilac County Jail
65 N. Elk
Sandusky, MI 48471

s/ J. McCoy

Case Manager